



December 6, 1999

Mr. Tracy A. Pounders
Assistant City Attorney
Office of the City Attorney
City of Dallas
2014 Main Street, Room 206
Dallas, Texas 75201

OR99-3514

Dear Mr. Pounders:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130023.

The City of Dallas (the "city") received a request for information relating to an economic impact analysis of proposed bridge alternatives for the Woodall Rogers Extension. You explain that a redacted version of the analysis was released to the requestor. You seek, however, to withhold the redacted information under section 552.105 of the Government Code.¹ We have considered the exception you claim and have reviewed the submitted information.

Section 552.105 excepts from disclosure information relating to:

- (1) the location of real or personal property for a public purpose prior to public announcement of the project; or
- (2) appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property.

¹You also assert that a third party may have a privacy or property interest in the redacted information. We note that in accordance with section 552.305, a governmental body must notify a third party of a request for that third party's proprietary information. The governmental body must also inform the third party of its responsibility to submit comments to this office explaining why the requested information must be withheld from disclosure. Act of May 25, 1999, 76th Leg., R.S., ch 1319, § 7, 1999 Tex. Sess. Law Serv. 4500, 4503 (Vernon) (to be codified as an amendment to TEX. GOV'T CODE § 552.305)

Section 552.105 is designed to protect a governmental body's planning and negotiating position with regard to particular transactions, and its protection is therefore limited in duration. Open Records Decision Nos. 564 (1990), 357 (1982), 310 (1982). Information excepted under section 552.105 that pertains to such negotiations may be withheld so long as the transaction is not complete. Open Records Decision No. 310 (1982). The protection of section 552.105 generally expires upon the governmental body's acquisition of the property in question. Open Records Decision No. 222 (1979). Because this exception extends to "information pertaining to" the location, appraisals, and purchase price of property, it may protect more than a specific appraisal report prepared for a specific piece of property. Open Records Decision No. 564 at 2 (1990). A governmental body may withhold information "which, if released, would impair or tend to impair [its] 'planning and negotiating position in regard to particular transactions.'" Open Records Decision No. 357 at 3 (1982) (quoting Open Records Decision No. 222 (1979)).

You explain that the city is involved in a project which consists of the "acquisition and development of improvements to real and personal property interests." You state that the "[a]nalysis is intended to assist the city in evaluating several preliminary alternatives" with regard to this project. Furthermore, you state that the release of the redacted information contained in the analysis "would hamper the City's ability to negotiate freely with the identified party, both on the location of real or personal property interests, and the price. Based on your arguments, we conclude that you may withhold the redacted information under section 552.105.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

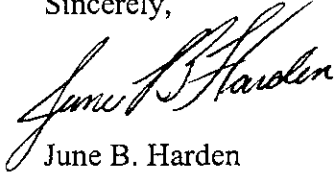
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records;

2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref: ID# 130023

Encl. Submitted documents

cc: Mr. Jim Schutze
6045 Bryan Parkway
Dallas, Texas 75206
(w/o enclosures)